IN THE COURT OF APPEALS OF IOWA

No. 23-0579
Filed March 27, 2024

IN THE INTEREST OF J.V.,
Minor Child,

D.B. and M.B., Guardians,
Petitioners-Appellants,

J.V., Mother,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Samantha Gronewald, Judge.

Guardians appeal the district court's denial of their petition to terminate a mother's parental rights to her child under Iowa Code chapter 600A (2020). **REVERSED AND REMANDED.**

Mark R. Hinshaw of The Law Offices of Mark R. Hinshaw, West Des Moines, for appellants.

Cathleen J. Siebrecht of Siebrecht Law Firm, Pleasant Hill, for appellee.

Considered by Bower, C.J., and Schumacher and Langholz, JJ.

BOWER, Chief Judge.

Guardians appeal the district court's denial of their petition to terminate a mother's parental rights under Iowa Code chapter 600A (2020). The guardians claim the court erred in determining the mother "did not abandon" the child; the child would not be at risk of abuse and neglect if returned to the mother's care; and termination of the mother's parental rights was not in the child's best interests. Upon our review, we reverse the juvenile court order and remand with directions to enter an order terminating the parental rights of the mother.

I. Background Facts and Proceedings

J.V. was born in April 2017. The mother was incarcerated when the child was born. D.B. and M.B. ("the guardians") were volunteers through the Safe Families for Children program.[1] They took the child home from the hospital after his birth to provide care while the mother finished serving a prison sentence. The mother was released from prison the following month and lived with the child at the House of Mercy. In March 2018, the mother requested the child return to the guardians' care, because she was "struggl[ing] with substance abuse." The child stayed with the guardians until June, when the mother was once again able to resume care of the child.

In April 2019, the mother relapsed, and the child went to live with the guardians. Around that time, the guardians filed a formal petition for guardianship, which the district court granted over the mother's resistance. The guardianship order allowed the mother twice-weekly visits with the child. Initially, the visits took

[1] Safe Families for Children is designed to help families in crisis by providing care for children for short periods of time.

place without issue. Communication between the guardians and the mother took place via Facebook Messenger, as the mother did not have a stable phone number. As time progressed, visits became less frequent and very random, even with the mother living nearby. Eventually, in 2020, the mother decided to move from Polk County to Scott County to be with her boyfriend. Her last in-person visit with the child was in April 2020. Communications became virtually nonexistent, with the mother ending her use of Facebook Messenger. On occasion the guardians would receive messages from unknown phone numbers, with no identification, asking about the child.

In the summer of 2021, the guardians moved the child, with their family, to Colorado. One year later, they relocated to Texas, where they continue to reside. The guardians did not disclose their new addresses to the mother because of prior threats of showing up unannounced and concerns for the child's safety. However, their phone numbers and email addresses remained unchanged. The mother had also been informed she could contact the guardians' attorney, who had represented them since 2019, at any time. Additionally, the maternal grandmother remained in contact with the guardians. The guardians' attempts to facilitate contact with the mother generally went unanswered. The last contact the mother had with the child occurred in April 2022 via Facetime. The visit did not go well as the child didn't recognize the mother and became quite distressed as he had not seen his "mother" for over two years.

Meanwhile, the guardians filed a petition to terminate the mother's parental rights, alleging the mother had "abandoned the child pursuant to Iowa Code section 600A.8(3)" and termination of the mother's parental rights would be in the

child's best interests. Following trial, the district court entered an order terminating the parents' parental rights. The mother appealed,[2] claiming she "did not receive statutorily-required notice of her right to counsel or of a videoconference hearing." *In re J.V.*, No. 21-0437, 2022 WL 610554, at *1 (Iowa Ct. App. Mar. 2, 2022). Upon our review, this court concluded "[t]he notice served on the mother did not comply with statutory requirements," and we reversed the district court's order, remanding for further proceedings. *Id.*

The matter came before the district court for a second termination hearing over two days in January and February 2023, during which time the court heard testimony from the guardians and the mother. Although the court observed the child, "[b]y all accounts" was "thriving in [the guardians'] care," the court also found the guardians had "prevented" or "shut the door" on the mother's ability to contact the child. The court concluded "the statutory ground in Iowa Code section 600A.8(3)(b)(1) and (2) have not been met" and denied the guardians' petition to terminate the mother's parental rights. The guardians appeal.

II. Standard of Review

"We review termination proceedings under Iowa Code chapter 600A de novo." *In re Q.G.*, 911 N.W.2d 761, 769 (Iowa 2018). "Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering the credibility of witnesses." *In re B.H.A.*, 938 N.W.2d 227, 232 (Iowa 2020) (quoting *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998)). The best interests of the child is our paramount concern. Iowa Code § 600A.1(1).

[2] The father had previously consented to the termination of his parental rights.

III. Analysis

A. Abandonment

Iowa Code chapter 600A authorizes the juvenile court to terminate a parent's rights if the parent has abandoned the child. *Id*. § 600A.8(3). Abandonment of a child occurs when "a parent . . . rejects the duties imposed by the parent-child relationship, . . . which may be evinced by the person, while being able to do so, making no provisions or making only a marginal effort to provide for the support of the child or to communicate with the child." *Id*. § 600A.2(20). Abandonment has been further defined by our legislature stating a parent is deemed to have abandoned a child six months of age or older

> unless the parent maintains substantial and continuous or repeated contact with the child as demonstrated by contribution toward support of the child of a reasonable amount, according to the parent's means, and as demonstrated by any of the following:
>
> (1) Visiting the child at least monthly when physically and financially able to do so and when not prevented from doing so by the person having lawful custody of the child.
>
> (2) Regular communication with the child or with the person having the care or custody of the child, when physically and financially unable to visit the child or when prevented from visiting the child by the person having lawful custody of the child.
>
> (3) Openly living with the child for a period of six months within the one-year period immediately preceding the termination of parental rights hearing and during that period openly holding himself or herself out to be the parent of the child.

Id. § 600A.8(3)(b). Therefore, to avoid a finding of abandonment, a parent must provide both a reasonable amount of support and maintain contact with the child or guardian. *See id.*

The juvenile court found the mother, "when she was financially able and allowed to do so by [the guardians], provide[d] gifts; food; and supplies for the minor child." We find differently. The mother made feeble attempts to provide

support for the child. A few diapers, some socks, adult snacks during initial visits, a few unsent gifts, and a cake when the child turned two years of age is not persuasive. The mother's actions failed the first element of "substantial and continuous or repeated contact with the child." *See id*. (requiring "repeated contact with the child as demonstrated by contribution toward support of the child of a reasonable amount"). However, even if the first element was met, we conclude the second element was not.

The district court found the guardians "placed certain terms and conditions" on the mother's visits and "similar restrictions on [mother]'s ability to communicate with the minor child." As such, the court could not fault the mother for her lack of regular visits or communication with the child.

However, upon our review, we find the record does not show the guardians placed excessive restrictions on the mother's ability to communicate with the child. In fact, the record indicates quite the opposite. There was ample testimony, by both the mother and the guardians, that the efforts to reach out came from the guardians, not the mother. The guardians assumed this responsibility even though a court shall not require a showing of diligent efforts by any person to encourage the parent to perform the duties of a parent. *See id*. § 600A.8(3)(c). The evidence shows the guardians had expressed their desire that the mother's boyfriend not attend visits after a statement by a juvenile court judge, but there was no evidence to suggest the guardians prohibited visits by the mother. However, even if we were to rely on the mother's testimony and discount the testimony of the guardians, this does not account for the time between April 2020 and the summer of 2021 during which the mother had no in-person contact with the child. Additionally, the mother

stated she did not make attempts to visit the child after the summer of 2021 because she "felt like we were not getting anywhere. We were butting heads all the time." The mother has undertaken no day-to-day parental responsibilities since April 2020.

Even prior to the guardians moving to Colorado, and then to Texas, the mother had already moved three hours away to be with her boyfriend. The mother had one in-person visit to see the child at a McDonald's restaurant after moving. The mother then promised to visit the following weekend, but she failed to show up, without notice. Prior to her move, she had lived approximately twenty minutes from her son. Essentially, the mother placed her own restrictions on her visits. While it can be argued the out-of-state move by the guardians hindered in-person visitation, Iowa Code section 600A.8(3) clearly gives an alternative route when a parent is physically and financially unable to visit a child or being prevented from doing so. The mother knew who had custody of the child and how to contact the guardians or their attorney. She had been advised of the guardians' move to Texas but did nothing. She had direct access to the child by way of phone calls, text messages, video calls, and Facebook Messenger, as well as the ability to contact the guardians through her own mother. The mother did not use any of these means to regularly communicate with the child or guardians. The mother claims to have wanted regular visitation with the child but when the guardians asked for dates and times the mother became "silent." We conclude clear and convincing evidence established the elements of abandonment under section 600A.8(3)(b).

The mother asserts it was always her intent to parent the child. A parent's subjective intent alone "does not preclude a determination that the parent has

abandoned the child." *Id.* § 600A.8(3)(c); *see In re G.A.*, 826 N.W.2d 125, 130 (Iowa Ct. App. 2012) ("Although the father asserts an interest in G.A., the legislature has specifically directed that a subjective interest in the child, 'unsupported by evidence of acts specified in paragraph "a" or "b" [monthly visitation and regular communication] manifesting such intent, does not preclude a determination that the parent has abandoned the child.' Parental responsibility demands 'affirmative parenting to the extent it is practicable and feasible under the circumstances.'" (alteration in original) (internal citations omitted)); *see also In re B.G.B.*, No. 19-1403, 2020 WL 4201004, at *4 (Iowa Ct. App. July 22, 2020) ("[S]ection 600A.8(3)(c) does not prohibit the court from considering a parent's intent; it only prohibits the court from determining that a parent has not abandoned a child based solely on the parent's subjective intent without taking the parent's acts into account."). "In making [its] determination, the court shall not require a showing of diligent efforts by any person to encourage the parent to perform the acts specified in paragraph 'a' or 'b.'" Iowa Code § 600A.8(3)(c).

The question of abandonment comes down to whether the mother's interactions are sufficient to manifest her subjective intent to maintain a substantial and continuous place in the child's life or if she made "only a marginal effort . . . to communicate with the child." *Id*. § 600A.2(20). Here, the mother's efforts to maintain communication with the child declined, discontinuing altogether in 2021 except for a lone video call in 2022.

"[P]arental responsibilities include more than subjectively maintaining an interest in a child. The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances." *In re Goettsche*, 311

N.W.2d 104, 106 (Iowa 1981). While the mother may have been interested in the child, we find the mother's meager efforts to demonstrate her parental responsibilities and maintain a place in the child's life were inadequate. Her actions over the last several years show little affirmative parenting. The guardians proved abandonment by clear and convincing evidence as provided in section 600A.8(3)(b).

B. Best Interests of the Child

Because a ground for termination has been established, we must determine if termination of the mother's rights is in the child's best interests. *In re N.C.*, No. 21-1268, 2022 WL 2160675, at *6 (Iowa Ct. App. June 15, 2022). The child's best interests in a private termination-of-parental-rights proceeding are the paramount consideration. *Id*. However, the parent's interests are also "given due consideration." *B.H.A.*, 938 N.W.2d at 232. For private termination proceedings:

> The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child, and demonstration of the establishment and maintenance of a place of importance in the child's life.

Iowa Code § 600A.1(2). "[T]he child's 'physical, mental, and emotional condition and needs' and the 'closeness of the parent-child relationship'" are also things to be considered. *Q.G.*, 911 N.W.2d at 771 (quoting Iowa Code § 232.116(2), (3)). "[W]e look to the child's long-range as well as immediate interests" in light of the parent's past performance and ability to provide the child with a safe, stable home.

B.H.A., 938 N.W.2d at 233 (quoting *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981)).

The guardians claim termination is in the child's best interests because of the lack of relationship between the mother and the child, the child's strong bond with the guardians, and the child's anxiety surrounding the latest interaction with the mother. The mother notes she is now employed, is attending college courses part-time, is actively engaged in mental-health therapy, is medication compliant, and has remained sober for more than three years. She also notes that she has appropriate housing for her and the child and has arranged for the child's schooling, childcare, and medical care in the event the child was to return to her. However, she fails to account for her lack of effort to demonstrate a "genuine effort to maintain communication" or establish and maintain an important place in the child's life. *See* Iowa Code § 600A.1(2). It was the guardians who were the driving force for the efforts to help the mother assume a role in the child's life, not the mother. We do not discount the mother's recent efforts to turn her life around; however, we cannot look past the fact many of these efforts have come at the eleventh hour.

Our evaluation of the child's needs and the parent-child bond also does not weigh in the mother's favor. The child, who is six, has lived with the guardians for all but one year of his life. Furthermore, the mother has shown little interest in connecting with the child even when in-person visits are not possible. The child has no emotional bond or connection with the mother. Termination of the mother's parental rights is in the child's best interests.

C. Risk of Abuse and Neglect

We need not address this issue as it is neither ripe nor relevant at this time. Had we not reversed the juvenile court's finding in this opinion, the guardianship would have still been in place and there would have been no risk of abuse or neglect to the child by his mother as he still would have been under the care and protection of the guardians.

Upon our review, we reverse and remand with instructions to enter an order terminating the parental rights of the mother.

REVERSED AND REMANDED.

Schumacher, J., concurs; Langholz, J., dissents.

LANGHOLZ, Judge (dissenting).

This is not an easy case. There is no question that the mother loves her son. And she has repeatedly—though admittedly not always—acted in his best interest rather than her own. She arranged for him to be cared for by a loving couple—now the guardians here—when he was born near the end of her incarceration on state theft and forgery convictions. She sought to rehabilitate herself and took him into her care as soon as she was able. Then she twice returned him to this family when she relapsed into using methamphetamine. She at least originally agreed to turning the placement into a guardianship before being spooked that she was making a legal mistake. And when her fears were realized and the guardians filed to terminate her parental rights, she sought to assert those fundamental and constitutionally protected rights—first without help from an attorney—even making a trip to our court once before to vindicate her right to counsel in this most serious of proceedings. *See In re J.V.*, No. 21-0437, 2022 WL 610554 (Iowa Ct. App. Mar. 2, 2022).

So too do the guardians have the child's best interest at heart. For more than five of his nearly seven years alive, they have nurtured and welcomed him into their family. They have treated him as their son. He is doing well. They love him. And he returns the love, cementing a healthy bond. It thus makes sense that the guardians believe it is in the child's best interest to make their relationship permanent by terminating the mother's parental rights and adopting him.

Indeed, if I were to conduct a best-interest analysis—like the majority and the guardian ad litem—I would conclude that the child should be placed with the guardians. Whatever path I would have hoped this care arrangement could have

taken, the reality remains that the guardians are the only family that the child knows. They are a good one for him. And unfortunately, because of the lack of contact between mother and child, the mother is essentially a stranger to her son. So much so that the last video contact in April 2022 "was very alarming to him" and "sent him in a frenzy" because he did not recognize her or understand who she was. I thus have trouble conceiving how the child could be returned to the mother without causing severe emotional trauma that would outweigh any benefits to him of connecting with his biological mother.

So why then am I dissenting? Because "we do not have the unbridled discretion of a Solomon. Ours is a system of law." *In re B.G.C.*, 496 N.W.2d 239, 241 (Iowa 1992). And under the governing statute here, we don't get to decide what's in the child's best interest unless the guardians first meet their heavy burden to prove by "clear and convincing" evidence that the mother "has abandoned the child."[3] Iowa Code § 600A.8 (2020); *see also In re M.M.S.*, 502 N.W.2d 4, 8 (Iowa 1993) ("When termination is grounded on a claim of abandonment, the abandonment must be established by clear and convincing evidence before the courts are authorized to explore the issue of the child's best interests."). I am compelled to conclude—like the district court—that the guardians have not met their burden, mainly because of their prevention of contact between the mother and child and their refusal of financial support from the mother. Thus, I would affirm the district court's dismissal of this termination petition.

[3] The statute authorizes the termination of parental rights on grounds other than abandonment as well. *See* Iowa Code § 600A.8(1)–(2), (4)–(11). But the guardians rely on only the abandonment ground.

I.

Under the statute, "a parent is deemed to have abandoned" a child who is at least six months old—like the child here—"unless the parent maintains substantial and continuous or repeated contact with the child." Iowa Code § 600A.8(3)(b). That required contact must be "demonstrated by contribution toward support of the child of a reasonable amount, according to the parent's means," and by any one of three means of contact:

> (1) Visting the child at least monthly when physically and financially able to do so and when not prevented from doing so by the person having lawful custody of the child.
>
> (2) Regular communication with the child or with the person having the care or custody of the child, when physically and financially unable to visit the child or when prevented from visiting the child by the person having lawful custody of the child.
>
> (3) Openly living with the child for a period of six months within the one-year period immediately preceding the termination of parental rights hearing and during that period openly holding himself or herself out to be the parent of the child.

Iowa Code § 600A.8(3)(b)(1)–(3).

This odd statutory structure—with its text "deem[ing]" abandonment unless the parent's conduct satisfies both the economic and contact components—sometimes causes us to focus on what the parents have proved about their conduct, almost as if it is a presumption that shifts the burden to the parents.[4] *See, e.g.*, *In re J.R.*, No. 23-1127, 2023 WL 8449501, at *3–4 (Iowa Ct. App.

[4] Before 2004, the statute provided two distinct abandonment grounds. The current, deeming framework only applied to terminating the rights of fathers. *See* Iowa Code § 600A.8(4) (2003). A separate, more open-ended ground that relied on just satisfying the general definition of abandonment could be used against all parents. *See id.* § 600A.8(3). In 2004, that general ground was repealed, and the deeming framework was broadened to apply to all parents. *See* 2004 Iowa Acts ch. 1010, §§ 1–2.

Dec. 6, 2023); *cf. In re N.J.W.*, No. 07-0146, 2007 WL 3085876, at *3–5 (Iowa Ct. App. Oct. 24, 2007) (avoiding deciding whether district court erred in putting burden to prove lack of abandonment of a child under six months on the parent). But at all times, the burden to prove abandonment is on the party or parties seeking to terminate the parent's rights. *See In re R.K.B.*, 572 N.W.2d 600, 601–02 (Iowa 1998) (putting the burden "on the petitioner to show" a different statutory ground for termination). And those parties—the guardians here—must do so by clear and convincing evidence, which "is the highest evidentiary burden in civil cases." *In re M.S.*, 889 N.W.2d 675, 679 (Iowa Ct. App. 2016).

So to prove abandonment, either of the distinct economic or contact components must be disproved by the guardians to deem the child abandoned by the parent. The district court found that the guardians failed to meet their burden to prove the mother abandoned her son through either component. Because the parties and the majority focus on the contact component, that's where I'll start too.

To disprove the contact component, the guardians must disprove all three potential means of contact: monthly in-person visitation, regular communication, or recently living with the child. *See* Iowa Code § 600A.8(3)(b)(1)–(3) (2020). What's more, the guardians cannot do so if they prevented or interfered with the mother's attempts to visit the child or communicate with them and the child. *See id.* § 600A.8(3)(b)(1) (excusing failure to visit monthly when "prevented from doing so by the person having lawful custody of the child"); *In re R.G.*, No. 21-1744, 2022 WL 2160691, at *3–4 (Iowa Ct. App. June 15, 2022) (reversing district court and finding no abandonment based in part on custodian's rejections of some attempts at contact through letter and phone and her moving without providing her new

address to the parent); *In re K.K.*, No. 20-0347, 2020 WL 5946085, at *4 (Iowa Ct. App. Oct. 7, 2020) (affirming dismissal for failing to prove abandonment where custodian "thwarted" phone and text communication and in-person visitation); *In re K.R.L.*, No. 02-1586, 2003 WL 21244297, at *2–3 (Iowa Ct. App. May 29, 2003) (reversing district court and finding no abandonment where parent's efforts at contact were "rebuffed" by custodian).

And that's the rub here. The district court found that the guardians prevented both physical visits and communication contact between the mother and child. And while these findings do not bind us on de novo review, I would give them much weight, especially since they are based implicitly on an assessment of the credibility of the parties' in-court testimony. *See In re J.L.W.*, 496 N.W.2d 280, 281 (Iowa Ct. App. 1992). This is because the district court "is greatly helped in making a wise decision about the parties by listening to them and watching them"—via videoconference, here—while we are limited to the cold, printed record and thus "denied the impression created by the demeanor of each and every witness." *In re Marriage of Vrban*, 359 N.W.2d 420, 423 (Iowa 1984) (cleaned up).

The district court's findings are supported by the evidence too. For the year-and-a-half before the termination hearing, the guardians were living out-of-state with the child—first in Colorado and then in Texas. They moved without first getting court approval—as required by the guardianship statute—or even telling the mother. *See* Iowa Code § 232D.401(4)(b) (requiring "prior court approval" before a guardian can exercise the power of "[e]stablishing the residence of the minor

outside of the state").[5] And once the mother learned of the move from a third party, the guardians still refused to share their address with her—out of concern that she or a former boyfriend would "show up on our property without our consent," apparently because of some past threat that they might do so. Thus, the mother was prevented from any in-person or written communication.

The guardians highlight that they still had the same phone number. And there is differing testimony between the guardians and the mother about exactly how often she tried to reach out to the guardians during this period. But the district court is in the better position to weigh the conflicting testimony to judge whether the mother is sincere or whether the guardians appeared evasive as they answered questions in ways that may not be apparent on the written page. Yet even we can read that the guardians admitted they sometimes did not answer text messages that might have been from the mother if they did not recognize the phone number. They also testified that at least once, they refused to arrange a call or video because they put the decision in the child's hands, and he said he did not want to talk with his mom. Such conduct does not weigh in favor of finding abandonment. *See K.K.*, 2020 WL 5946085, at *4 (noting that letting young children decide about contact not only prevented contact but "placed the children, intentionally or not, in the middle of [the custodian's] conflict with the [parent] and,

[5] As in this termination case, the mother did not originally have legal representation in the guardianship proceeding to seek enforcement of this requirement or others that do not appear to have been followed. *See* Iowa Code § 232D.402(4) (requiring the guardian to "make reasonable efforts to facilitate the continuation of the relationship of the minor and the minor's parents"); *id.* § 232D.402(5) (requiring filing of annual reports). While the court eventually appointed an attorney to represent the mother in that proceeding as well, the proceeding has essentially been sitting in limbo awaiting the results of this case.

at the same time, undermined the [parent's] relationship with the children." (cleaned up)).

True, as the majority points out, there were some earlier periods before the guardians moved to Colorado when the mother also had no contact with the child or the guardians—without any real explanation beyond her conflict with the guardians or her other personal choices. And section 600A.8(3)(b) is unclear what timeframe a court should look at when the parent's or custodians' conduct has varied over time. But we know that later conduct can negate what might otherwise be a finding of abandonment in at least some instances. *See* Iowa Code § 600A.8(3)(b)(3) (expressly looking to conduct in "one-year period immediately preceding" the termination hearing for one of the three means of potential contact that must be disproven). So it seems the best interpretation of the statute would let other means of contact—and such contact's prevention—in later periods to likewise negate a finding of abandonment. Especially where, as here, the guardians prevented the mother from having any contact for over a year, right up until the hearing at which they sought to claim abandonment.

Turning to the economic component, the guardians devote less than a page of their appellate brief to challenging the district court's finding that they failed to disprove that the mother contributed financial support for the child according to her means. *See id.* § 600A.8(3)(b). Perhaps they make only this cursory argument because one of the guardians testified at trial that she did not "think [the mother] has the means" to support the child. Indeed, she went on to say, "I also don't think that's necessary."

The mother testified too that the guardians had refused her offers of financial support: "[W]hen we first got into this guardianship, I remember offering $20 to them, and they declined it, saying they—they wanted to see me progress in my future more than that." And when asked about the mother providing supplies for the child, the guardian testified, "We really were encouraging her to get healthy and get stable in herself. So it's not something we've asked her to do." And again for food, the guardian explained "never have we asked or expected that of her."

The mother agreed that until recently, she was struggling financially. Still, despite her limited means and the guardians' reluctance, the mother did offer some support. She testified that she gave them some of her food stamps. And she bought or supplied some food (including a birthday cake), diapers, socks, and gifts.

And then sometime in 2022—according to testimony of both the guardians and the mother—they "told her that she could not send any gifts or other items or any other kind of support to [their] home" because they did not want to disclose their out-of-state address to her. Even so, she kept purchasing clothes and other items for him that she's saving for when she can give them to her son. ("I still have a whole pile of stuff that I want to give him," she testified.) And one of the guardians conceded that she has kept asking—without success—if she could send "gifts or other items" to her son even after their directive.

The district court heard and relied on all this testimony to find that the mother contributed support "when she was financially able and allowed to do so by" the guardians. Again, I would defer to this finding and agree that there is ample support in the record to reach the same conclusion on our de novo review. Much like their prevention of contact, the guardians cannot discourage and refuse

financial support from the mother and then turn around and use that lack of support to meet their burden. And I am mindful that the most important support the mother provided was choosing to place her son in the guardians care three times when she knew she could not meet his needs. *Cf. In re Burney*, 259 N.W.2d 322, 324 (Iowa 1977) ("It is ironic that [the mother's] very act of obtaining excellent care for [her child] by placing him with the [guardians] should now be turned against her as a manifestation of neglect of parental duty."); *In re L.Y.*, 968 N.W.2d 882, 900 (Iowa 2022) (explaining in the related context of guardianship termination that "it is particularly inappropriate to focus solely on a parents failure to discharge the duties of parental care and protection" when the child is under the guardianship "because guardianships are designed to temporarily relieve parents of the rigors of raising a child" (cleaned up)). So the guardians have disproved neither the economic component nor the contact component. I thus agree with the district court's finding that they failed to prove abandonment by clear and convincing evidence.

Still, I emphasize that even dismissal of this termination petition would not return the child to his mother. Whether the guardianship should end or be modified is a different question not before us here. And the failure to prove abandonment now would not prevent the guardians from filing a new termination petition based on the parties' future conduct. Indeed, termination would likely become appropriate in the future if the mother did not maintain substantial and continuous or repeated contact even when the guardians were not interfering with that contact. To be sure, none of this prolonged uncertainty would be ideal for anyone—the mother, the guardians, or the child. But that does not matter if the guardians failed to meet their burden to prove a ground for termination as required by the statute.

II.

For all these reasons, I would affirm the district court's dismissal of the guardians' termination petition. But since the judgment of this court goes the other way and the mother's rights are soon to be terminated, I offer one final entreaty to the parties. In her testimony to the district court, one of the guardians expressed their intent that even after termination of the mother's rights, they would "invite her in as a person in [the child's] life." And the mother has kept in healthy contact with her two other biological children after termination of her parental rights to them. I commend those desires and urge the parties to work together—despite the admitted geographic challenges—to make some continued relationship between the mother and her child a reality after this case ends too.

Of course, with her parental rights terminated, the mother will have no legal right to demand any role in the child's life. Indeed, any such role will not be as the child's legal mother anymore. But no court can sever the biological ties or alter the reality of the important role that the mother played in giving life to her son and entrusting him to the care of his new loving family. And he will benefit from understanding and nourishing those ties. So I earnestly hope that the parties can set aside the acrimony of this litigation and move forward in the best interest of the boy they all love so much.